

### REMARKS (37 CFR 1.111)

Applicant has considered all points made by the Examiner in the Office Action.

Applicant amended the claims to clarify the structure which the Applicant believes distinguishes the present invention over the cited reference, to clarify the function of the claimed invention, and to clarify the limitations within the claims drawn to such a structure. Applicant added new claims that Applicant believes distinguishes the present invention over the cited reference. Applicant believes the amended and new claims are supported by the specification.

The examiner has rejected Claims 1-9, 14-16 pursuant to 35 U.S.C. §102, and such claims have been canceled. Applicant has canceled the above claims without prejudice to refiling the claims at a later date and without any admission that the claims are not patentable.

### 35 U.S.C. § 102 Rejection

Claims 10-13 and 17-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Garwick, U.S. Reg. No. 482,633. Anticipation is a factual determination. In order to establish anticipation, it is incumbent upon the Examiner to identify in a single prior art reference disclosure of each and every element of the claims in issue, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481 (Fed. Cir. 1984); *In re Schaumann*, 572 F.2d 312, 197 U.S.P.Q. 5 (C.C.P.A. 1978) (anticipation is measured with respect to the terms of the claims in issue).

When determining if a prior art reference anticipates a claim containing elements expressed as a means for performing a function pursuant to 35 U.S.C. § 112, last paragraph, "the limitations which must be met are those set forth in each statement of function." *RCA Corp. v.*

Applied Digital Data Sys., Inc., 730 F.2d 1440, 1445 n.5, 221 U.S.P.Q. 385, 389 (Fed. Cir. 1984).

When the claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options disclosed by the reference, the reference does not anticipate. *Akzo N.V. v. U.S. Int'l Trade Comm'n*, 808 F.2d 1471, 1480, 1 U.S.P.Q.2d 1241, 1245-46 (Fed. Cir. 1986), cert. denied, 482 U.S. 909, 107 S.Ct. 2490 (1987).

Applicant respectfully traverses the rejection of Claims 10-13 and 17-32. Garwick does not disclose each of the elements of Claim 10. Without limitation, Claim 10 includes a hook.

The Merriam – Webster OnLine Dictionary, located at [www.m-w.com](http://www.m-w.com), defines “hook” as:

A noun:

- 1 **a** : a curved or bent device for catching, holding, or pulling **b** : something intended to attract and ensnare
- 2 : something curved or bent like a hook; *especially plural* : **FINGERS**
- 3 : a flight or course of a ball that deviates from straight in a direction opposite to the dominant hand of the player propelling it; *also* : a ball following such a course -- compare **SLICE**
- 4 : a short blow delivered with a circular motion by a boxer while the elbow remains bent and rigid
- 5 : **HOOK SHOT**
- 6 : **BUTTONHOOK**
- 7 : quick or summary removal -- used with *get* or *give* <the pitcher got the *hook* after giving up three runs>
- 8 : a device especially in music or writing that catches the attention
- 9 : a selling point or marketing scheme

A verb:

- 1 : to form into a hook : **CROOK**
- 2 **a** : to seize or make fast by or as if by a hook **b** : to connect by or as if by a hook -- often used with *up*
- 3 : **STEAL, PILFER**
- 4 : to make (as a rug) by drawing loops of yarn, thread, or cloth through a coarse fabric with a hook
- 5 : to hit or throw (a ball) so that a hook results

*intransitive senses*

**1** : to form a hook : **CURVE**

**2** : to become hooked

**3** : to work as a prostitute

And as noun, word combinations:

**boat hook:** a pole-handled hook with a point or knob on the back used especially to pull or push a boat, raft, or log into place

**cant hook:** a lumberman's lever that has a pivoting hooked arm and a blunt often toothed metal cap at one end

**duck hook:** a pronounced and unintended hook in golf

**gang hook:** two or three fishhooks with their shanks joined together

**grappling iron:** a hooked iron for anchoring a boat, grappling ships to each other, or recovering sunken objects -- called also *grappling hook*

**hook and eye:** a 2-part fastening device (as on a garment or a door) consisting of a metal hook that catches over a bar or into a loop

**hook and ladder truck:** a piece of mobile fire apparatus carrying ladders and usually other fire-fighting and rescue equipment -- called also *hook and ladder*, *ladder truck*

**hook check:** an act or instance of attempting to knock the puck away from an opponent in ice hockey by hooking it with the stick

(The Merriam-Webster Dictionary (Merriam-Webster, Inc.) (1997) at page 358 contains some of essentially the same definitions.) The definition as stated above is consistent with the way Applicant's "hook" is shown and described in the application. A hook, as described and claimed by applicant, is a curved or bent device for catching or holding -- its structure does not provide for a closed ring. Although there are various definitions, none of the definitions includes a ring or "eye" as described and claimed in Garwick. In fact though, an "eye" is mentioned in

the definitions, but it is different from a hook as a different piece in the “hook and eye” defined above. In short, a hook and an eye are different both structurally and functionally.

Garwick does not anticipate Claim 11 in that it is dependant upon Claim 10 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 12 in that it is dependant upon Claim 11 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong that is attached at an angle of between 20 degrees and 85 degrees, relative to the prong arm. Instead, the half circle shape of Garwick’s hooks incorporates a curve but leaves the point of the hook at virtually 0° relative to the prong arm.

Garwick does not anticipate Claim 13 in that it is dependant upon Claim 12 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong with a tapered end. It’s text makes no mention of a tapered end, and the figures show hooks with blunt ends.

Garwick does not disclose each of the elements of Claim 17. Without limitation, Claim 17 includes a second upper cross member plate wherein the first plate and the second plate are attached to opposite ends of the same prong arm pivot. Further, the upper cross member cylinder is attached between, and near the center, of the first and second plates. Unlike Garwick, Applicant’s Claim 17 requires a “sandwiching” of the pivot and cylinder between two (2) cross member plates. Although the Examiner states that Garwick has two (2) plates “attached to the

opposite end of said prong arm pivot,” this is incorrect. Garwick describes a single cross member with two (2) pivots at opposite ends. Each of the two (2) pivots are attached to only one (1) cross member on one (1) side. Additionally, the Examiner did not address Claim 17’s requirement that the cross member cylinder be attached between, and near the center, of the first and second plates. Thus, Applicant’s invention is not structurally nor functionally similar to Garwick.

Garwick does not anticipate Claim 18 in that it is dependant upon Claim 17 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 19 in that it is dependant upon Claim 18 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a support hook (as discussed above).

Garwick does not anticipate Claim 20 in that it is dependant upon Claim 18 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 21 in that it is dependant upon Claim 20 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong that is attached at an angle of between 20 degrees and 85 degrees, relative to the prong arm (as discussed above).

Garwick does not anticipate Claim 22 in that it is dependant upon Claim 21 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all

of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong with a tapered end (as discussed above).

Garwick does not anticipate Claim 23 in that it is dependant upon Claim 19 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 24 in that it is dependant upon Claim 23 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong that is attached at an angle of between 20 degrees and 85 degrees, relative to the prong arm (as discussed above).

Garwick does not anticipate Claim 25 in that it is dependant upon Claim 24 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong with a tapered end (as discussed above).

Garwick does not anticipate Claim 26 in that it is dependant upon Claim 17 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a support hook (as discussed above).

Garwick does not anticipate Claim 27 in that it is dependant upon Claim 17 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 28 in that it is dependant upon Claim 27 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong that is attached at an angle of between 20 degrees and 85 degrees, relative to the prong arm (as discussed above).

Garwick does not anticipate Claim 29 in that it is dependant upon Claim 28 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong with a tapered end (as discussed above).

Garwick does not anticipate Claim 30 in that it is dependant upon Claim 26 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim.

Garwick does not anticipate Claim 31 in that it is dependant upon Claim 30 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong that is attached at an angle of between 20 degrees and 85 degrees, relative to the prong arm (as discussed above).

Garwick does not anticipate Claim 32 in that it is dependant upon Claim 31 and since all elements of the independent Claim are not disclosed, then likewise, Garwick does not disclose all of the elements, and the combination of elements, of the dependent Claim. Additionally, again without limitation, Garwick does not disclose nor claim a prong with a tapered end (as discussed above).

Thus, the patent cited by the Examiner does not disclose each and every element of the claims at issue.

#### CONCLUSION

In view of the above, it is submitted that the remaining claims are in a condition for allowance. Reconsideration and withdrawal of the rejections and objections are hereby requested. Allowance of the pending claims at an early date is solicited.

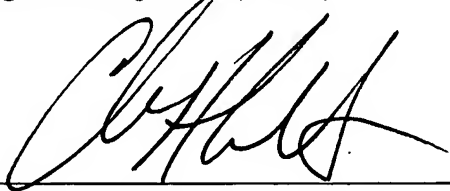
If impediments to allowance of the pending claims remain, and a telephone conference between the undersigned and the examiner would help remove such impediments in the opinion of the examiner, a telephone conference is respectfully requested.



Respectfully submitted,

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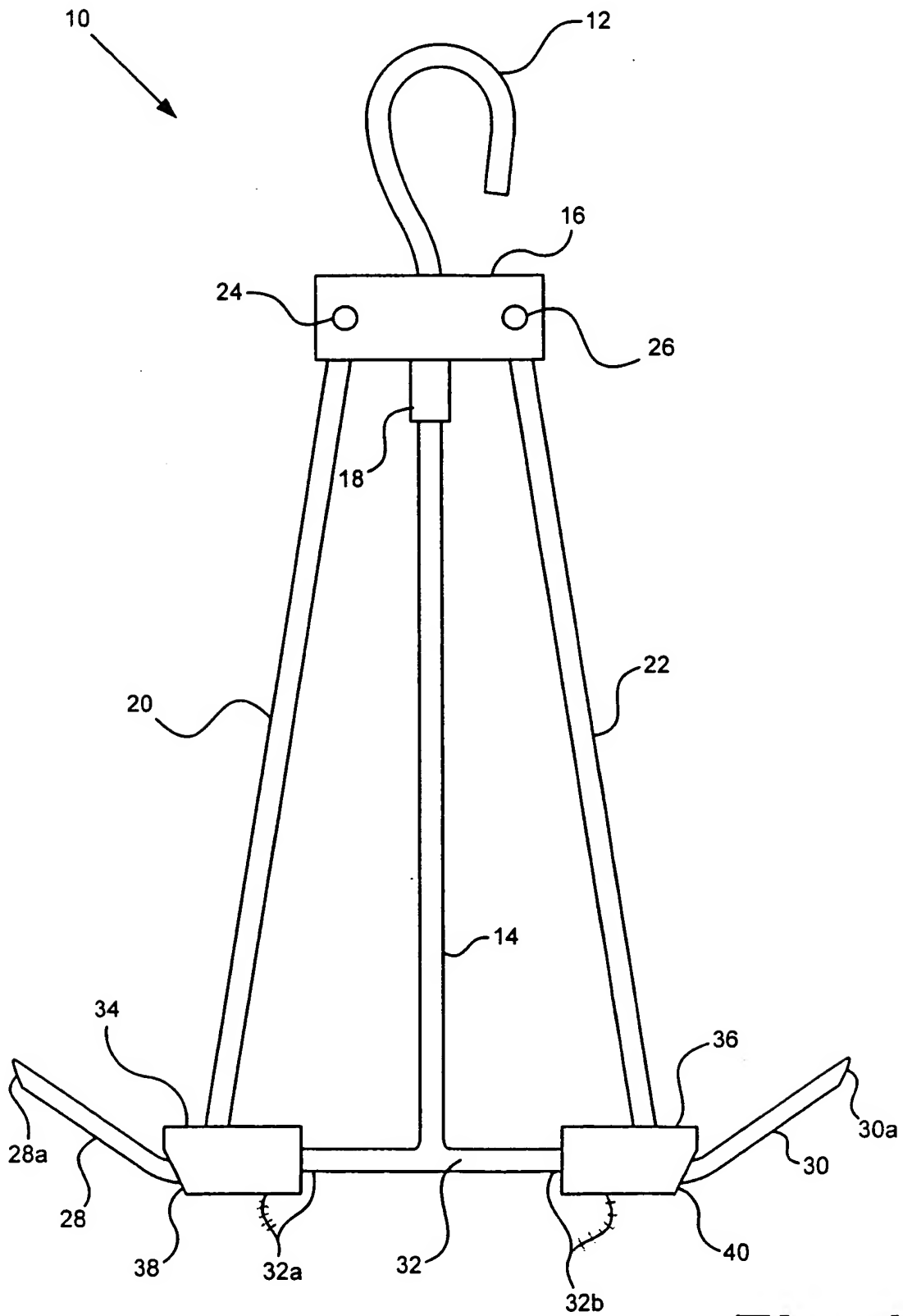
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### DRAWING AMENDMENTS

A new revised drawing of Figure 1 is attached to more clearly show that the lead line from reference number “32a” refers to the lower cross member first end and that it does not refer to the first lower cross member collar. The revised drawing of Figure 1 also more clearly shows that the lead line from reference number “32b” refers to the lower cross member second end and that it does not refer to the second lower cross member collar.



ANNOTATED MARKED-UP DRAWINGS



**Fig. 1**